

JAN 16 2018

DOUGLAS F. YOUNG, Clerk
By

Deputy Clerk

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF ARKANSAS

DAVID A. STEBBINS

PLAINTIFF

VS.

CASE NO. 3:17-cv-03092

STATE OF ARKANSAS, ARKANSAS
REHABILITATION SERVICES, AND AMY JONES

DEFENDANTS

**MOTION FOR SANCTIONS AND MOTION TO STRIKE [131] DEFENDANTS'
MOTION FOR SUMMARY JUDGMENT, ON IN THE ALTERNATIVE FOR
EXTENSION OF TIME TO FILE RESPONSE IN OPPOSITION THEREOF**

Comes now, *pro se* Plaintiff David Stebbins, who hereby submits the following Motion for the Defendants to be sanctioned for attempting to engage in ex parte communications with the Court. I also move that their motion for partial summary judgment be stricken to prevent any prejudice I have suffered from this ex parte communication, or at the very least, that I be granted an extension of time to file my response.

1. On January 5, 2018, the Defendants filed a Motion for Summary Judgment as to my Rehabilitation Act claims. However, I do not have ECF, which means I cannot see what exactly that motion says unless I pay what (for me, at least; see Doc. 1 in the above-styled action) is a good deal of money.
2. The Defendants are required to serve me with a verbatim copy of everything they file with the Court. It is now past noon on January 9, 2018; the mail has already run today, and I still have not received a copy of the Defendants' motion in the mail.
3. Yesterday, I contacted the Defendants and demanded that they rectify this error. Today, the Defendants responded, attempting to ring their hands of the situation. See **Exhibit 1**. Ms. Cryer *said* that she served me with the motion (although she offers no evidence aside from her uncorroborated word), but she never implied that she had any intention of doing anything further

to ensure that I *receive* a copy of it. If I do not get it in the mail, then that is just too bad for me, as far as she is concerned.

4. In other words, if their failure to serve me with a copy of the motion was not intentional before, it has now become such due to their failure to rectify the error once it was brought to their attention.

5. This is not the first time the Defendants have attempted a stunt like this. See Doc. 18, another motion I have filed in this case where I sought to have the Defendants sanctioned for a very similar action that we have here: Filing a dispositive motion without serving me with a copy of it, in the hopes that I would not notice and the Court would rule on the motion *ex parte* without realizing that he was ruling on it *ex parte*.

6. I therefore ask that the Court issue the Defendants an appropriate sanction to deter them from ever attempting something like this ever again.

7. In addition, I also ask that the Court take steps to remedy the prejudice I have suffered from this *ex parte* filing. In particular, I ask the Court to strike the Defendants' Motion for Summary Judgment as to my Rehabilitation Act claims. This could simultaneously serve as an appropriate sanction, allowing the Court to do both things with one action.

8. If, however, the Court will not strike the Defendant's Motion – either as a sanction or a means of correcting prejudice – then I at least ask for an extension of time to file my response to it.

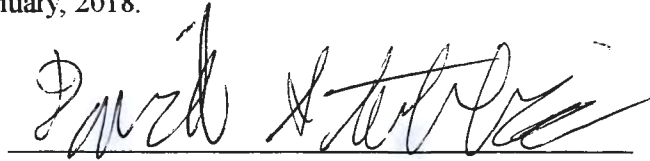
9. I cannot specify a particular date, like I did with Doc. 115. Instead, I ask that the Defendants be ordered to serve me with a copy of the Motion, and this time, to obtain proof of delivery. Once I receive the copy of the motion, and the Defendants can prove that I received it, then and only then would I be given fourteen (14) days to file my Response in Opposition to it,

whatever that date may be. That is the only way – short of striking the motion altogether, to truly undo any prejudice caused by the Defendants' ex parte motion.

10. Please remember that the Defendants' failure to serve me with the motion is almost certainly intentional ... because they refused to make any effort to correct the deficiency. Even if the initial failure to serve was not their fault, their refusal to correct their error *is* their fault and is very much intentional. It is on that grounds that the Defense should be disciplined.

11. Wherefore, ~~premises~~ considered, ~~I~~ respectfully request that the defendants be sanctioned for their attempt at making an ex parte motion, and for the prejudice from this ex parte motion to be corrected.

So requested on this, the 9th day of January, 2018.

A handwritten signature in black ink, appearing to read "David Stebbins", is written over a horizontal line.

David Stebbins
123 W. Ridge St.,
APT D
Harrison, AR 72601
870-204-6516
stebbinsd@yahoo.com

Subject: RE: Recent Motion for PSJ

From: christine.cryer@arkansasag.gov

To: stebbinsd@yahoo.com

Date: Tuesday, January 9, 2018, 8:26:47 AM CST

Mr. Stebbins,

I personally placed a large envelope, addressed to you, containing a copy of all pleadings that I filed on January 5, 2018 in the mail receptacle on Friday, January 5, 2018 – just as the Certificate of Service said I did.

I have not, and will not file anything with the Court and not send you a copy. You are entitled to a copy of everything that I file in this case.

Unfortunately, I cannot account for the USPS or their delivery of mail to you.

Christine A. Cryer

Senior Assistant Attorney General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas 72201

Office: 501.683.0958 | Fax: 501.682.2591

Christine.Cryer@ArkansasAG.gov | ArkansasAG.gov



From: David Stebbins [mailto:stebbinsd@yahoo.com]
Sent: Monday, January 08, 2018 11:45 AM
To: Christine Cryer
Subject: Recent Motion for PSJ

Dear Ms. Cryer,

I noticed on Pacer that you filed a Motion for Partial Summary Judgment (or PSJ for short) seeking to dispose of my Rehabilitation Act claims.

That was filed on Friday, January 5, 2018. It is now January 8, 2018. If you mailed the motion to me, I should have gotten it by now (because USPS usually takes two days to ship between Harrison and Little Rock). However, my mail has run today, and I do not have your motion.

This is literally the second time this case that you have tried to file a motion without sending me a copy.

I will give you only one chance to rectify this error. Send me the motion or I will move for you to be sanctioned.

Sincerely,

David Stebbins

CERTIFIED MAIL®

David Stebbins
123 W. Ridge St.,
ATP D
Harrison, AR 72601



7017 2400 0000 6901 6267

CPU



U.S. POSTAGE
\$3.84
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35 East Mountain Street, Room 510
Fayetteville, Arkansas 72701-5354

JAN 16 2018

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